MEMORANDUM

TO: Members, Clark Fork Basin Water Management Task Force

FROM: Matthew McKinney, Executive Director
Gerald Mueller, Project Coordinator

SUBJECT: Summary of January 6, 2003 Meeting

DATE: January 8, 2003

Participants
Those present included:

	Name	Organization/Area Represented
Task Force Members	Eugene Manley	Granite County
	Harvey Hackett	Bitterroot Water Forum
	Fred Lurie	Blackfoot Challenge
	Bill Slack	Lower Flathead (St. Ignatius)
	Elna Darrow	Flathead Basin Commission
	Jay Stuckey	Lower Clark Fork Watershed Councils
	Jim Dinsmore	Upper Clark Fork
	Steve Fry	Avista Corp.
	Phil Tourangeau	Confederated Salish and Kootenai Tribes
	Marc Spratt	Flathead Conservation District
	Gail Patton	Sanders County
	Holly Franz	PPL Montana
	Tracy Turek	City of Missoula
Staff	Matt McKinney	Montana Consensus Council (MCC)
	Gerald Mueller	MCC
	Mike McLane	Montana Department of Natural Resources and Conservation
Public	Tim Sullivan	US Forest Service - Region 1

Meeting Goals
$ Begin to develop a shared vision of the ideal management scenario for the Clark Fork Basin
$ Begin to develop agreement about the options to protect the security of water rights.

Discussion of November 26 Meeting Summarys
The participants made no change to the meeting summary.

Issue Paper Status
Matt McKinney reported that five issue papers have been or are being written. These issue papers are covering elements of a draft plan. They include:
$ Plan table of contents;
$ Background and purpose of the Task Force;
$ Physical availability of water;
$ Water rights; and
$ Legal and regulatory constraints on Basin water use.

USFWS Bull Trout Recovery Plan
The US Fish and Wildlife Service (USFWS) has released proposed critical habitat designation and a draft recovery plan for bull trout. The draft plan can be found at http://pacific.fws.gov/bulltrout/recovery. Written comments on the plan may be mailed to the Fish and Wildlife Service, Snake River Basin Office, Attention Robert Ruesnik, 1387 W. Vinnell Way, Room 368, Boise, ID 83709 until February 27, 2003. Comments on the proposed designation of critical bull trout habitat can be submitted until January 28, 2003 to John Young, Bull Trout Coordinator, USFWS, 911 N.E. 11th Ave., Portland, OR 97232. The Task Force requested that someone from the USFWS present the proposed recovery plan and critical habitat designation at its February meeting.

Vision of the Ideal Management Scenario
Meeting participants were broken into two groups which then reviewed the Task Force member homework responses including the elements of an ideal water management scenario for the Clark Fork River Basin. A transcription of the work product of each group is contained below in Appendix 1. The two groups then recombined and together discussed and reached tentative agreement on the elements of a vision. A draft vision statement is attached below as Appendix 2.

Options to Protect the Security of Water Rights
Again in the two groups, the participants first reviewed the homework submittals listing current actions in their respective sub-basins to protect the security of water rights and then new ideas for doing the same. The lists of current and possible new ideas are included in Appendix 1 below.

Next Meeting
The next meeting is scheduled for Monday, February 3, 2003 in Helena at a location to be announced. The meeting will be in Helena to facilitate Rep. Jackson's attendance. The representatives of the Flathead Sub-basin agreed to the request to explain their views on basin closure at the February meeting, assuming Rep. Jackson can attend. The agenda for the February meeting will include:

- A briefing by a representative of the USFWS about the proposed bull trout recovery plan and critical habitat designation;
- A discussion by Flathead Task Force members of their view of basin closure; and
- Discussion of the Task Force's second and third objectives, strategies to promote the orderly development of water and strategies to provide for the conservation of water in the future.

PLEASE BRING THE COPIES OF THE HOMEWORK SUBMITTALS PASSED OUT TO YOU AT THE JANUARY MEETING TO THE FEBRUARY MEETING.

APPENDIX 1

Flip Chart Transcription
Clark Fork Task Force Meeting
January 6, 2003

I. What is your vision of the ideal scenario for water management in the Clark Fork River Basin?

Group 1

Elements of a Vision

- Promote maximum beneficial use of resource without damage to resource
- Recognize and protect existing rights
- Provide flexibility to allow change
- Coordinate water use within and among sub-basins
  - Agencies
  - Geography
- Individual sub-basins should manage water within their sub-basin
- Share water among multiple users
- Acknowledge and understand the multiple interests for water use
- Acknowledge the relationships to other natural resources
  - holistic, integrated approach
- An ongoing monitoring and evaluation of water management system throughout the basin
  - Apply adaptive management (learn as you go)
  - Build on whatever systems currently exist (e.g. sanitation, land-use planning, water rights) in a more holistic integrated way
- Acknowledge inter-relationships of existing management practices
  - Timing of diversions and return flows
  - Surface-ground water interactions
- Promote "highest and best" use of available water (might mean reallocation)
  - Hierarchical
- "Optimize" the use of existing water resources
  - Implies more of a mix
- Consider the economic impact/value of different water uses
- Recognize there is no more free water
  - Claiming water today means you are challenging someone else's existing use/right
  - The water within the basin has value and is becoming more valuable

Methods to Implement the Vision

- A simple, comprehensive method to enforce water rights
- Close basin to all new water rights
- No closure in the Flathead
- Complete water adjudication process
- An integrated GIS management system (a model)
- Forecast water availability/shortages
- Measure all water diversions
- What sort of system do we need to achieve our vision?
  - Recognize that management/change is best done at the local level

- Balance independent decisions with collective choices
- Build on existing watershed groups

Group 2

Vision of Ideal Scenario

- Understand the system to managed
  - Existing water uses
  - Ground and surface water supply
- Once system is understood, then develop a management system based on sub-basins within a larger basin context
- Then manage the system guided by the following goals:
  - Manage for multiple uses
  - Cooperate during shortages
  - Continue water education
  - Protect and sustain the natural resource

II. Options to Protect the Security of Water Rights

Group 1

What Does Secure Water Rights Protect?

- Water availability
- Economic interest
- Legal priority

What Do We Mean by Security of Water Rights?

- What do we mean by security?
  - Rules won't change
  - Predictability
  - Certainty
  - Timely and affordable enforcement

What Is Currently Being Done?

- Adjudication
- DNRC water rights permitting and change processes
- Basin closure
- Watershed planning
- Water commissioners
- Reserved Water Right Compact Commission
- Data collection/GIS tools
  - Stream flow
  - Groundwater monitoring

New Ideas

- Greater definition of groundwater and aquifer characteristics
- Increased funding for the adjudication
- Increased funding for the Compact Commission

- Re-allocate existing resources
  - Within DNRC offices in Missoula & Kalispell
  - From new appropriations to adjudication
- Relieve or share the burden of existing water rights holders
  - Clarify the "criteria" for objecting to new water right applications by asking more of applicants and less of existing rights holders (e.g. clarify the intent of use such as instream, fish ponds, etc.)
  - Clarifications must be reasonable so that they do not create a disincentive to develop new water or to comply with the law
- Provide incentives to create new water user groups, e.g.
  - Associations
  - Irrigation districts
  - Conservancy districts
  - Watershed groups
- DNRC should do more to enforce change and permit conditions
- Require junior users to contribute to the cost of water commissioners even when they are not receiving water
- Institute loser pay provisions for DNRC administrative processes
- Enforce Water Court decrees
  - New applicants must demonstrate no harm

Group 2

What Is Currently Being Done?

- Adjudication is underway
- Basin closures on the upper Clark Fork and Bitterroot sub-basins
- Compact negotiations
- Litigation
- Existing appropriation/permitting processes

New Ideas

- Provide additional resources for the adjudication process, including:
  - Additional funding for the Water Court
  - Re-prioritize DNRC resources to focus on adjudication needs
- Apply new technology
  - GIS
  - Increase coordination among data collectors and examiners
- Institutional objector (Attorney General or DNRC)
- Establish as a goal completing the adjudication of the Clark Fork basin within 12 years, including:
  - 5 years to complete DNRC claims examination
  - 2 additional years to complete Water Court issuance of preliminary decrees
  - 5 additional years for the Water Court to issue enforceable decrees

APPENDIX 2
DRAFT
Clark Fork River Basin Task Force
Vision Statement
January 8, 2003

The ideal scenario for water management in the Clark Fork River Basin includes the following elements:

1. Understand the system to be managed, including the:

$ Existing water uses and interests;
$ Ground and surface water supply;
$ Relationships of water to other natural resources; and
$ Fact that no more free water is available because any new water claim today is a challenge to existing uses/rights, and water within the basin has value and is becoming more valuable.

2. Once the system is understood, then develop a management system based on sub-basins within a larger basin context by:

$ Building on whatever systems currently exist (e.g. sanitation, land-use planning, water rights) in a holistic, integrated way;
$ Recognizing the inter-relationships of existing management practices, such as the timing of diversions and return flows and surface-ground water interactions;
$ Providing an ongoing monitoring and evaluation of water management system throughout the basin; and
$ Applying adaptive management (learn as you go).

3. Then manage the system guided by the following goals:

$ Recognize and protect existing rights;
$ Manage for multiple uses;
$ Cooperate during shortages;
$ Continue water education; and
$ Protect and sustain the water resource.